

REMARKS

This Response is submitted in reply to the final Office Action mailed on December 16, 2008. The Office Action rejected Claim 35 under 35 U.S.C. §112, second paragraph, and rejected Claims 32, 33 and 35 under 35 U.S.C. §103. Claims 32, 33 and 35 are amended herein. Claims 36-38 are newly added. No new matter has been entered thereby. A Request for Continued Examination is submitted with this Response. The Director is authorized to charge the RCE fees any other fees that may be required, or to credit any overpayment to Deposit Account No. 02-1818.

The Office Action rejected Claim 35 under 35 U.S.C. §112, second paragraph,¹ for allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action states that “as the short fibers are comprised of a synthetic fiber and a natural fiber, it is unclear that the short fibers and the foamed material could have been made of the same material.” (See, Office Action, pg. 2). Claim 35 has been amended to clarify that the foamed layer and short fibers each are made from the same resin material, as suggested by the Examiner. Accordingly, Applicant respectfully submits that the rejection has been overcome and requests withdrawal of the 35 U.S.C. §112, second paragraph rejection of Claim 35.

The Office Action rejects Claims 32, 33 and 35 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,357,386 to Luciano et al. (“Luciano”) in view of U.S. Patent No. 5,093,967 to Frank (“Frank”) and U.S. Patent No. 3,664,905 to Schuster (“Schuster”). As admitted in the Office Action, Luciano fails to disclose: (a) that “the staple fibers are embedded in the foam layer in the shape of a truss;” (b) “that the polyolefin fiber is a combination of polypropylene fiber and polyethylene fiber;” and (c) “that the papermaking felt is further coated with a cement layer.” (See, Office Action, pgs. 3 and 4). In addition, Luciano fails to disclose or suggest a foamed layer produced by foaming and fusing together chips, as recited in each of amended independent Claims 32, 33 and 35. In contrast to the amended claims, the foam layer in Luciano is composed of discrete particles that are not fused together, in contrast to the presently claimed invention. The Office Action also states that “the foam layer includes discrete polyethylene foam particles.” (See, Office Action, pg. 3). Moreover, Luciano relates to a papermaking felt, which differs from the technical field of the present application. Accordingly, in addition to the deficiencies of Luciano discussed above, and even assuming that the fibers in

Luciano are embedded in the shape of a truss (as discussed on page 3 of the Office Action), Luciano fails to disclose or suggest each of the feature of the presently claimed invention.

The Office Action relies on Frank and Schuster to remedy the deficiencies of Luciano. Schuster discloses rupturing a thin film of adhesive with one or more compressed air jets 56 such that the strong jets 56 of compressed air will rupture the adhesive and drive the resulting globules of adhesive into and under the surface of web 26 where they contact and adhere to points of contact of individual fibers. (See, Schuster, col. 4, lines 44-68). This can be seen in Figs. 7 and 8, where the individual globules of adhesive 64 are imbedded inside the web. Accordingly, Schuster fails to disclose or suggest a foamed layer produced by foaming and fusing together chips, as recited in each of amended independent Claims 32, 33 and 35.

The remaining Frank reference is merely relied on for the alleged disclosure of a non-woven layer including 60-80 wt% of polyethylene fiber and 20-40 wt% polypropylene fibers. Therefore, Frank fails to cure the deficiencies of Luciano and Schuster, even assuming that the references are properly combinable.

For at least the foregoing reasons, Applicants respectfully submit that Claims 32, 33 and 35 are in condition for allowance and request withdrawal of the 35 U.S.C. §103(a) rejections in view of Luciano, Frank and Schuster.

In addition, Applicants respectfully submit that new Claims 36-38, which depend from amended Claims 32, 33 and 35 respectively, are in condition for allowance for at least the reasons discussed above, and for the additional elements recited therein.

An earnest endeavor has been made to place this application in condition for formal allowance and is courteously solicited. If the Examiner has any questions regarding this Response, the Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

K&L GATES, LLP

BY 

Robert M. Barrett
Reg. No. 30,142
Customer No. 24573

Dated: March 5, 2009